

SENATE BILL 31

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2003 Regular Session
3r0440

By: **Senators Kelley, Britt, Colburn, Conway, Della, Giannetti, Gladden,
Grosfeld, Hollinger, Hooper, Jacobs, Jones, Lawlah, Mooney, Stoltzfus,
and Teitelbaum**

Introduced and read first time: January 13, 2003
Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: February 14, 2003

CHAPTER _____

1 AN ACT concerning

2 **Informal Kinship Care - Consent to Health Care on Behalf of a Child**

3 FOR the purpose of authorizing a relative providing informal kinship care to consent
4 to health care on behalf of a child under certain circumstances; requiring a
5 certain relative to file a certain affidavit at ~~a local department of social services~~
6 the Department of Human Resources, Social Services Administration; requiring
7 the affidavit to include certain information; establishing a form for the affidavit;
8 requiring certain affidavit forms to be provided free of charge at certain offices;
9 requiring a certain relative to provide certain notice to a local department of
10 social services within a certain time period; requiring a certain relative to file a
11 certain affidavit annually; authorizing certain relatives to apply for medical and
12 public assistance entitlements for certain children; providing that an affidavit
13 under this Act does not abrogate the right of a parent or guardian to consent to
14 certain health care; defining certain terms; and generally relating to informal
15 kinship care and consenting to health care on behalf of a child.

16 BY adding to
17 Article - Health - General
18 Section 20-105
19 Annotated Code of Maryland
20 (2000 Replacement Volume and 2002 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
22 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Health - General**

2 20-105.

3 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
4 INDICATED.5 (2) "INFORMAL KINSHIP CARE" MEANS A LIVING ARRANGEMENT IN
6 WHICH A RELATIVE OF A CHILD, WHO IS NOT IN THE CARE, CUSTODY, OR
7 GUARDIANSHIP OF THE LOCAL DEPARTMENT OF SOCIAL SERVICES, PROVIDES FOR
8 THE CARE AND CUSTODY OF THE CHILD DUE TO A SERIOUS FAMILY HARDSHIP.9 (3) "RELATIVE" MEANS AN ADULT RELATED TO THE CHILD BY BLOOD OR
10 MARRIAGE WITHIN THE FIFTH DEGREE OF CONSANGUINITY.

11 (4) "SERIOUS FAMILY HARDSHIP" MEANS:

12 (I) DEATH OF A PARENT OR LEGAL GUARDIAN OF THE CHILD;

13 (II) SERIOUS ILLNESS OF A PARENT OR LEGAL GUARDIAN OF THE
14 CHILD;15 (III) DRUG ADDICTION OF A PARENT OR LEGAL GUARDIAN OF THE
16 CHILD;17 (IV) INCARCERATION OF A PARENT OR LEGAL GUARDIAN OF THE
18 CHILD;19 (V) ABANDONMENT BY A PARENT OR LEGAL GUARDIAN OF THE
20 CHILD; OR21 (VI) ASSIGNMENT OF A PARENT OR LEGAL GUARDIAN TO ACTIVE
22 MILITARY DUTY.23 (B) A RELATIVE PROVIDING INFORMAL KINSHIP CARE FOR A CHILD MAY
24 CONSENT TO HEALTH CARE ON BEHALF OF THE CHILD IF:25 (1) A COURT HAS NOT APPOINTED A GUARDIAN FOR THE CHILD OR
26 AWARDED CUSTODY OF THE CHILD TO AN INDIVIDUAL OTHER THAN THE RELATIVE
27 PROVIDING INFORMAL KINSHIP CARE; AND28 (2) THE RELATIVE VERIFIES THE INFORMAL KINSHIP CARE
29 RELATIONSHIP THROUGH A SWORN AFFIDAVIT THAT:

30 (I) MEETS THE REQUIREMENTS OF THIS SECTION; AND

31 (II) IS FILED WITH ~~A LOCAL DEPARTMENT OF SOCIAL SERVICES~~
32 THE DEPARTMENT OF HUMAN RESOURCES, SOCIAL SERVICES ADMINISTRATION.

33 (C) THE AFFIDAVIT SHALL INCLUDE:

- 1 (1) THE NAME AND DATE OF BIRTH OF THE CHILD;
- 2 (2) THE NAME AND ADDRESS OF THE CHILD'S PARENT OR LEGAL
- 3 GUARDIAN;
- 4 (3) THE NAME AND ADDRESS OF THE RELATIVE PROVIDING INFORMAL
- 5 KINSHIP CARE;
- 6 (4) THE DATE THE RELATIVE ASSUMED INFORMAL KINSHIP CARE;
- 7 (5) THE NATURE OF THE SERIOUS FAMILY HARDSHIP AND WHY IT
- 8 RESULTED IN INFORMAL KINSHIP CARE; AND
- 9 (6) THE KINSHIP RELATION TO THE CHILD OF THE RELATIVE
- 10 PROVIDING INFORMAL KINSHIP CARE.

11 (D) THE AFFIDAVIT SHALL BE IN THE FOLLOWING FORM:

12 (1) I, THE UNDERSIGNED, AM OVER EIGHTEEN (18) YEARS OF AGE AND

13 COMPETENT TO TESTIFY TO THE FACTS AND MATTERS SET FORTH HEREIN.

14 (2) _____ (NAME OF CHILD), WHOSE DATE OF BIRTH IS

15 _____, IS LIVING WITH ME BECAUSE OF THE FOLLOWING SERIOUS FAMILY

16 HARDSHIP (CHECK EACH THAT IS APPLICABLE):

- 17 _____ DEATH OF FATHER/MOTHER/LEGAL GUARDIAN
- 18 _____ SERIOUS ILLNESS OF FATHER/MOTHER/LEGAL GUARDIAN
- 19 _____ DRUG ADDICTION OF FATHER/MOTHER/LEGAL GUARDIAN
- 20 _____ INCARCERATION OF FATHER/MOTHER/LEGAL GUARDIAN
- 21 _____ ABANDONMENT BY FATHER/MOTHER/LEGAL GUARDIAN
- 22 _____ ASSIGNMENT OF FATHER/MOTHER/LEGAL GUARDIAN TO
- 23 ACTIVE MILITARY DUTY

24 (3) THE NAME AND LAST KNOWN ADDRESS OF THE CHILD'S PARENT(S)

25 OR LEGAL GUARDIAN IS:

26 _____

27 _____

28 _____

29 (4) MY KINSHIP RELATION TO THE CHILD IS _____

30 (5) MY ADDRESS IS:

1
 2 STREET _____ APT. NO.
 3
 4 CITY _____ STATE _____ ZIP CODE _____

5 (6) I ASSUMED INFORMAL KINSHIP CARE OF THIS CHILD FOR 24 HOURS
 6 A DAY AND 7 DAYS A WEEK ON _____ (DAY/MONTH/YEAR).

7 (7) THE NAME AND ADDRESS OF THE SCHOOL THAT THE CHILD
 8 ATTENDS IS:

9 _____
 10 _____

11 (8) I SOLEMNLY AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE
 12 CONTENTS OF THE FOREGOING ARE TRUE TO THE BEST OF MY KNOWLEDGE,
 13 INFORMATION, AND BELIEF.

14 _____

15 SIGNATURE OF AFFIANT

16 _____

17 (DAY/MONTH/YEAR)

18 (E) AFFIDAVIT FORMS THAT COMPLY WITH SUBSECTION (D) OF THIS SECTION
 19 SHALL BE MADE AVAILABLE FREE OF CHARGE AT THE OFFICES OF EACH COUNTY
 20 BOARD OF EDUCATION AND EACH LOCAL HEALTH DEPARTMENT.

21 (F) IF A CHANGE OCCURS IN THE CARE OR IN THE SERIOUS FAMILY
 22 HARDSHIP OF THE CHILD, THE RELATIVE PROVIDING INFORMAL KINSHIP CARE
 23 SHALL NOTIFY THE ~~LOCAL DEPARTMENT OF SOCIAL SERVICES~~ DEPARTMENT OF
 24 HUMAN RESOURCES, SOCIAL SERVICES ADMINISTRATION IN WRITING WITHIN 30
 25 DAYS AFTER THE CHANGE OCCURS.

26 (G) THE RELATIVE PROVIDING INFORMAL KINSHIP CARE SHALL FILE AN
 27 AFFIDAVIT ANNUALLY WITH THE ~~LOCAL DEPARTMENT OF SOCIAL SERVICES~~
 28 DEPARTMENT OF HUMAN RESOURCES, SOCIAL SERVICES ADMINISTRATION FOR
 29 EACH YEAR THE CHILD CONTINUES TO LIVE WITH THE RELATIVE BECAUSE OF A
 30 SERIOUS FAMILY HARDSHIP.

31 (H) A COPY OF THE AFFIDAVIT SHALL BE GIVEN TO THE HEALTH CARE
 32 PROVIDER THAT TREATS THE CHILD.

33 (I) THE RELATIVE PROVIDING INFORMAL KINSHIP CARE MAY APPLY ON
 34 BEHALF OF THE CHILD FOR ALL MEDICAL AND PUBLIC ASSISTANCE ENTITLEMENTS
 35 FOR WHICH THE CHILD MAY BE ELIGIBLE.

1 (J) ~~THE PARENT OR LEGAL GUARDIAN OF A CHILD SHALL HAVE FINAL~~
2 ~~DECISION-MAKING AUTHORITY REGARDING THE HEALTH CARE NEEDS OF THE~~
3 ~~CHILD AN AFFIDAVIT UNDER THIS SECTION DOES NOT ABROGATE THE RIGHT OF~~
4 THE PARENT OR GUARDIAN OF A CHILD TO CONSENT TO HEALTH CARE ON BEHALF
5 OF THE CHILD IN A FUTURE HEALTH CARE DECISION.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2003.